

AMENDED IN SENATE JUNE 8, 2011

AMENDED IN ASSEMBLY MAY 16, 2011

AMENDED IN ASSEMBLY APRIL 15, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1081**

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**Introduced by Assembly Member Ammiano**  
**(Coauthors: Assembly Members *Bonilla*, *Cedillo*, *Monning*, and**  
***Skinner*)**  
(Coauthor: Senator Yee)

February 18, 2011

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An act to add Chapter 17.1 (commencing with Section 7282) to Division 7 of Title 1 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1081, as amended, Ammiano. State government: federal immigration policy enforcement.

Existing law, setting forth the findings and declarations of the Legislature, provides that all protections, rights, and remedies available under state law, except any reinstatement remedy prohibited by federal law, are available to all individuals regardless of immigration status who have applied for employment, or who are or who have been employed, within the state, and further provides that, for purposes of enforcing specified state laws, a person's immigration status is irrelevant to the issue of liability, and prohibits, in proceedings or discovery undertaken to enforce those state laws, an inquiry into a person's immigration status except where the person seeking to make the inquiry

has shown by clear and convincing evidence that the inquiry is necessary in order to comply with federal immigration law.

This bill would state the findings and declarations of the Legislature with respect to a memorandum of agreement with the United States Department of Homeland Security, regarding the implementation of the Immigration and Customs Enforcement's Secure Communities program, that the Bureau of Criminal Identification and Information within the Department of Justice entered into on April 10, 2009. The bill would require the bureau to modify that agreement, according to specified requirements, or to exercise its authority under the agreement to terminate the agreement.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) The Legislature finds and declares all of the  
2 following:

3 (1) Washington, Pennsylvania, and Washington, D.C. have all  
4 refused to enter into a memorandum of agreement with the United  
5 States Department of Homeland Security regarding the Immigration  
6 and Customs Enforcement's Secure Communities program because  
7 the program undermines community policing, public safety, and  
8 protections against racial profiling. Pursuant to the program, federal  
9 officials have claimed the authority to use state and local law  
10 enforcement resources for the purpose of channeling individuals  
11 into federal civil immigration enforcement based on minimal  
12 contact with law enforcement.

13 (2) Immigrant residents who are victims or witnesses to crime,  
14 including domestic violence related crimes, are less likely to report  
15 the crime or cooperate with law enforcement because any contact  
16 with law enforcement could result in deportation, without regard  
17 to whether the arrest or the result of a mistake, or merely a routine  
18 practice of questioning individuals involved in a dispute without  
19 pressing charges. Victims or witnesses to crimes may have recourse  
20 to lawful status (such as U-visas or T-visas) that detention resulting  
21 from Secure Communities obstructs.

22 (b) It is the intent of the Legislature that the Bureau of Criminal  
23 Identification and Information within the Department of Justice  
24 modify the memorandum of agreement with the United States

Department of Homeland Security, regarding the implementation of the Immigration and Customs Enforcement's Secure Communities program it entered into on April 10, 2009, as specified in this act, thereby paying respect to the wishes of several local jurisdictions that have actively worked for decades to build community trust in law enforcement and have expressed concern that the Secure Communities program has been deployed without adequate notice and without their consultation or consent.

SEC. 2. Chapter 17.1 (commencing with Section 7282) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 17.1. FEDERAL IMMIGRATION POLICY ENFORCEMENT

7282. (a) The Bureau of Criminal Identification and Information within the Department of Justice shall modify the memorandum of agreement with the United States Department of Homeland Security, which shall be referred to as the modified agreement, regarding the implementation of the Immigration and Customs Enforcement's Secure Communities program in accordance with all of the following requirements:

(1) The modified agreement shall authorize a ~~local government~~ *county* to participate in the Secure Communities program only upon the ~~passage of an ordinance or resolution authorizing participation by the legislative body of the local government.~~ *legislative body of the county submitting an authorized written request to Immigration and Customs Enforcement's Secure Communities program executive director.*

(2) The modified agreement shall require a ~~local government~~ *county* that opts to participate in the program, as provided in paragraph (1), to prepare a plan to monitor and guard against racial profiling, discouraging reporting by domestic violence victims, and harming community policing overall. This plan shall be deemed a public record for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(3) The modified agreement shall include all of the following ~~exemptions and~~ limitations to the Secure Communities program:

(A) Protections for *crime victims, including, but not limited to,* domestic violence victims.

(B) Protections for juveniles.

1 (C) An explicit limitation on the sharing of fingerprints with  
2 Immigration and Customs Enforcement officials to only those  
3 individuals convicted, rather than merely accused, of a crime.

4 (4) The modified agreement shall include, but not be limited  
5 to, all of the following safeguards against racial profiling:

6 (A) A prohibition against obtaining fingerprints for the purposes  
7 of the Secure Communities program through the use of  
8 checkpoints, and the stopping of individuals solely based on  
9 perceived immigration status.

10 (B) A requirement that the Immigration and Customs  
11 Enforcement establish a complaint process that allows for expedited  
12 review of claims by those put into immigration removal  
13 proceedings prior to conviction as a result of the program.

14 (5) The modified agreement shall include a requirement that  
15 Immigration and Customs Enforcement make available to the  
16 public on its Internet Web site quarterly statistics on the Secure  
17 Communities program in this state that include the following metric  
18 criteria:

19 (A) Number of searches to IDENT.

20 (B) Number of matches to IDENT data.

21 (C) Number of detainees issued by Immigration and Customs  
22 Enforcement based on Level 1, Level 2, and Level 3 offense  
23 categories.

24 (D) Number of detainees issued by Immigration and Customs  
25 Enforcement where charges are never filed, are later dismissed,  
26 or where there is ultimately no conviction.

27 (E) Number of Level 1, Level 2, and Level 3 arrestees who are  
28 transferred into Immigration and Customs Enforcement custody  
29 after being subjected to an Immigration and Customs Enforcement  
30 detainer, where charges are never filed, are later dismissed, or  
31 where there is ultimately no conviction.

32 (F) Number of identified detainees prosecuted criminally in  
33 federal *and state* court.

34 (G) Number of identified detainees removed from the United  
35 States.

36 (H) Number of identified United States citizens and persons  
37 with lawful status identified through the Secure Communities  
38 program.

39 (I) Nationality, age, and gender of individuals identified and  
40 removed through the Secure Communities program.

1 (b) If the bureau is unable to fulfill the requirements of  
2 subdivision (a), it shall exercise its authority under the agreement  
3 to terminate the agreement.

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